

*Application No. 10/358,981*

REMARKS

Claim 21 has been added. Support for this amendment can be found throughout the originally filed specification and drawings. *See, e.g.* page 4, lines 10-12 and Figures 1-3. No new matter has been added.

The Examiner rejected claims 1-20 under 35 U.S.C. 102 as being anticipated by United States Patent 6,619,628 issued to Steffes (the "Steffes reference"). Applicants respectfully traverse this rejection.

The Steffes reference discloses a picket fence cap assembly that includes a plastic picket cap member and a clip having an upwardly bowed central portion joined to first and second upwardly extending end portions. The bowed central portion of the clip attaches to a post inside the plastic picket cap member. The end portions each include at least one outwardly protruding barb. The picket fence cap assembly is inserted into a hollow picket fence member. The bowed central portion of the clip biases the end portions of the clip outwardly toward the inner side wall surfaces of the hollow picket fence member. The protruding barbs of the end portions of the clip embed into the inner side wall of the hollow picket fence member and hold the picket fence cap assembly within the hollow picket fence member.

The Steffes reference, however, fails to disclose at least the following italicized limitations of independent claims 1 and 18.

1. A lockable protective cap for a post having a top end and an engageable surface, the cap comprising:

a sidewall having a first end and an open second end, *said sidewall forming a post receiving opening;*

a cover at least partially closing said first end of said sidewall;

*Application No. 10/358,981*

*a locking member extending inwardly from said sidewall for engaging the engageable surface of the post.*

18. A lockable protective cap for a post having a top end and an engageable surface, the cap comprising:

a sidewall having a first end and an open second end, *said sidewall forming a post receiving opening;*

a cover at least partially closing said first end of said sidewall;

*a locking member extending inwardly from said sidewall for engaging the engageable surface of the post;* and

a means for preventing said cap from rotating about the post.

For example, the side wall of the plastic picket cap member disclosed in the Steffes reference does not form a post receiving opening. Rather, the cap assembly disclosed in the Steffes reference is inserted into a hollow picket fence member. Although the Examiner argues that the lower hollow portion of the plastic picket cap member forms a post receiving opening, the disclosure of the Steffes reference teaches that the picket cap assembly is inserted into the hollow picket fence member. Nor can the lower hollow portion of the plastic picket cap member form a post receiving opening, because the clip 120 would prevent a post from being inserted into the lower hollow portion of the plastic picket cap member.

Further, the picket fence cap assembly disclosed in the Steffes reference does not disclose a locking member extending inwardly from the sidewall for engaging an engageable surface of a post. Rather, the barb 124 of the clip 120 extends outwardly from the clip 120 (not the sidewall) to engage the inner side wall of the hollow picket fence member. Nor does the clip 120 form a locking member that extends from the side wall. The clip 120 attaches to a post 128 of the plastic picket cap member and extends outwardly from the post 128 to engage an inner surface of the hollow picket fence member at the barb 124.

*Application No. 10/358,981*

Further, dependent claims 2-17, 19-21 contain all the limitations of independent claims 1 and 18, and thus are not anticipated for at least the same reasons as independent claims 1 and 18.

CONCLUSION

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Thomas J. Osborne, Jr.  
Registration No. 39,796  
1560 Broadway, Suite 1200  
Denver, CO 80202-5141  
(303) 863-9700

Date: November 24, 2004